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Oral Comments from Eau Claire Listening Session

November 13, 2003

The information contained in this summary is a transcript of public comments provided at the Eau Claire listening session. Portions of the taped comments may not have been transcribed if inaudible. Names are spelled phonetically and may be misspelled.

Comments were received during two sessions. Session I was from 4:30 p.m. to 5:30 p.m. Session II was from 8:00 p.m. to 9:00 p.m. Time allotted to each speaker was based on the number of speakers that registered.

Session I

Carol: First of all I would like to thank everyone who has been on this committee. I have been following it and getting the emails and however we feel about the specific issues, I think they've put a lot of work and a lot of thought into it. I'd like to give them a round of applause for that if you don't mind. Thank you. There are two concerns that I have. I've had a cottage on the lake for thirty years and I've been living on the Kinney River for 33 years, so I've got both backgrounds here. I'm on the cooperative boundary commission in our area, where cities and the townships are kind of required by the state law now to work on these agreements. The Kinney River flows through our four townships, and since I live right on the Kinney, I'm looking for a way that the committee can address unique situations in which actual construction or reconstruction would significantly improve the habitat. Now that might be kind of an oxymoron, but for example where I'm living if I were to subdivide my land with a stormwater runoff ordinance, I would have to build a retention pond. That would cool the water before it would go into the river. So in some cases encouraging the development in specific situations, if it would improve the habitat, if it would improve the river, the lake, whatever it was. I don't know how you can write that, but if there would be substantial improvement to the environment some individual situations should be looked at.

The second thing is stormwater runoff. I was talking with someone and I understand they're working on a stormwater ordinance in the state. It's kind of a new thing, and we've got one of the most restrictive ones in the state already in our city. But I don't see that addressed in this ordinance at all. If reconstruction is done, yes you're dealing with the impervious surfaces a little bit. You're watching the size, the setback, and the buffers; and they're all valuable things. But you're still having the water runoff, and it's still warmer. Being able to have some kind of a retention pond, stormwater runoff system in this . . . they pointed out a vague or small reference to it. I'd like to see that be a little more specific if this reconstruction on the property takes place. Thank you.

Moderator: Thank you, Carol. Carol kind of got amnesty on this, but what I'd like to do, and she was under time, but I'd like to hold your comments to three minutes so that everyone has a time to give a comment.

Meg Marshall: Hi, I'm Meg Marshall. I'm really wearing three hats this afternoon. I'm speaking on behalf of the Rusk County Waters Alliance of which I'm a board member. I'm also on the Lower Chippewa Basin Partner Team, and I'm the citizen's science director here at Beaver Creek, close to Eau Claire. I have property in Rusk County. I've lived there; this is our 24th summer. I've always been very concerned with the condition of the lake, and I'm a very strong proponent of buffers. I'm here to speak strongly in favor in buffers. I don't think 35 feet are enough. I have seen data that have shown various distances for different types of land, and I think that 50 feet is really desirable, so we are strongly in favor of that. I'm also very concerned about impervious surfaces, so I'd like to see a decrease in allowable impervious surfaces and an increase in the buffer zone.

Nancy Niznick: I just more or less have a question. If you get these proposals all made in stone, and turn them over to the Legislature after all of the tax payers money getting them ready, and the Legislature takes a look at them and they feel they all look okay, but I think we should increase the square footage to 30,000 feet. They can do that and slide it through just like Tommy Thompson did with the Smart Growth Law, right? And here we are nonconforming.

Moderator: I'd like to keep this session from here on out as comments only. This is the comment period not the question period, but Toni would you just briefly address that and then I'd like to move on to the next person.

Toni Herkert: The Legislature has a 30-day passive review in which they can hold public hearings. At the end of their public hearings within the 30 days, they can request changes to the proposal. If they request changes to the proposal at that point, the DNR has a couple of different options: we can try to negotiate, we can accept their proposed changes, or we can deny their proposed changes. If we negotiate, hopefully we get something everybody can live with. If we accept their proposed changes, we're just going to accept them and move forward, and what they say goes. If we deny their changes then the rule revision dies. The new NR 115 is not implemented. But if they want to make the changes that they requested but we denied accepting, they have to introduce a bill. So they would have to introduce a bill, and it would have to go through the entire Legislative cycle, including approval by the Governor before it would become enacted. So they do have a pretty significant review of administrative rules, but they can't just do whatever they want with the administrative rules. They would have to go through the normal bill process.

Nancy Niznick: Will people know this is happening?

Toni Herkert: Sure, if you're on the list of interested parties we'll keep people updated. The Web site will keep people updated all the way through the end of the rule revision process. And I'm sure that if you are getting contacted from anybody about these listening sessions, you can

bet you'll be contacted when it gets over to the Legislature about any public hearings or proposals the Legislature would have.

Doug Hossneck: My concern is about non-residents who have cabins in Wisconsin, and move back and forth to Minneapolis. I feel that we don't have too much representation or anything to say about what happens to our properties. I have cabin in Burnett County. In Burnett County they have 22 directors, and that's fine, I guess the more people you have representing you the better it is. But there aren't any non-residents on that board. If we had some non-resident people on that board, we would have at least a say in what goes on, and being a taxpayer, I think we have that right.

Patricia Andress: My name is Pat Andress. I am a board member of WAL (Wisconsin Association of Lakes) and I'm a property owner. But I am very conscious of all of Wisconsin's citizens that have a right to enjoy the waters of Wisconsin. As a property owner for 40 years, I have observed many changes including fewer frogs, fewer snakes, fewer 10 lb. 9-oz. walleyes, and fewer scuba divers. Now I'm not going to describe the whole lake, but just a small bay. Some of the changes in this bay are new boat houses, four in the last ten years, just in this little bay; more buildings, larger buildings, longer driveways, more turfgrass . . . typical scenes that you saw in Toni's slides. Well science tells us that these changes are related. With more impervious surfaces, more polluted runoff is generated. Furthermore, with the loss of the buffer and of native plants the polluted runoff is not filtered. So I strongly agree with Meg and with Anne who state that we need better stormwater management, and we certainly need buffers.

With these changes that affect the three major concerns that we have: water quality, fish and wildlife habitat, and natural scenic beauty. I wanted to thank Toni, and I wanted to thank the committee that has worked very hard on these reasonable proposals that will provide more protection for our Wisconsin waters, the public waters. I have one more piece of information that is another relationship that might appeal to some people especially. Water quality effects land value, and that is based on a study from northern Minnesota. It is a fairly large study that examined 1200 residential properties. They concluded that they had enough lakes and parcels to establish a real relationship between water quality and land value. So if you will look at this study that was in the Duluth News Tribune, you can read about the exact figures they came up with comparing water quality and land value. Thank you.

Toni Herkert: You can find that article on the Shoreland Management Web site under the Economics of Shoreland Development.

Robert Sibb: I have farmed for 51 years on my own. I've put filter strips in, buffer strips. In the cow yard we have filter strips to filter all water for the cow lot, for the heifer lot. I have tried to be conservative. I have planted over 11,000 trees, and am beginning to harvest them now. They are 50-55 years old. I have now moved to a retirement home. Dan Koishk gave me the blessings of putting a fishpond, trout fish pond. And other agencies knocked it down. This here property is in the floodplain. Here is a picture what happens every time Dunkan Creek is drained by parts of Barron County, Chippewa, Auburn Township, Cooks Valley and Bloomer. I have right here an order of trees, which through the high school as an educational program we were going to plant trees. We also, through the bank, were going to have gazebo down there, picnic area and

everything. This is what this land looked like three weeks later. The water is still there. Every time we have a flood, she floods over. My black ash is dying. I wanted to build this fishpond. Couldn't. I wanted to put a solid pipe in. I couldn't because it's just to take the floodwater. I didn't want a porous pipe to drain it out. It is floodplain, not wetland. Yet, why I can't put in just to take the water that the lord put there by overflowing Dunkan Creek into the floodplain. I now wanted to try to put a ditch in there so it could naturally flow out. There are stipulations with different organizations that I can't do it because of the silt and one thing or another. I wonder are my rights being violated. I can go along with the DNR, other organizations know it. But yet, if you look at the Wisconsin State statutes 92.8, 92.9, conservation is supposed to help relieve me of this floodplain. Who has the most right now? Other organizations, the State, or the DNR? I thank you, sir.

Jack Nesson: My name is Jack Nesson, president of Nesson Lake Shore, Inc. located in Barron County. I have been involved in lake shore land development, lake-home, and cabin construction since 1957, and have managed development activities in Barron, Polk, and Washburn Counties. I'm past member of Wisconsin Realtors Association and have served as a local board president. I would like to like to direct my comments toward Section 2: Setbacks, specifically towards boathouses. In Barron County, our local realtor and zoning committees whole-heartedly supported a ban on boathouses within the 75-foot setback over 20 years ago. This ban continues to be in effect with our current shoreland zoning ordinance.

We have an excellent variety of lake sizes, and our ordinance certainly has posed no hardship on shoreland property owners. On the other hand, existing boathouses pose one of the greatest disruptions to the aesthetics of the lakes. Because of their location close to the water, they are susceptible to rapid deterioration and constant repairs. Economically, they make no sense. It is less expensive to remove and store a boat during the winter months when you compare that to the cost of construction, repairs, maintenance, and added property taxes. However, the greatest justification for eliminating boathouses within the 75-foot setback is hazardous waste. When I drive around some of our older developed lakes, I can't help but wonder how much lead-based paint is flaking and being slowly deposited into our waters. How much asbestos from siding and roofing in our waters all from runoff as a result of being too close to the water's edge? Who's to say that present day building materials through aging and deterioration may some day prove to be detrimental to the ecology of our lakes? I recall once, when one of our cabin owner clients in a 21-lot subdivision commented to me that he was upset that he couldn't build a boathouse. I simply replied, "how would you like to see 21 boathouses lining the shores of our subdivision?" He got the message. Thank you.

Jim Olsen: I'm Jim Olsen from Eau Claire. I'm speaking as a long time consumer of water quality here in Wisconsin. My comments are fairly general; I will make more specific written comments. I have been using Wisconsin's lakes and rivers for a long time now, fishing, canoeing, boating, generally camping, enjoying the fine quality we have in Wisconsin lakes. Over that time I have gone through a whole series of problems that I have noticed in the lakes.

Starting with point-source pollution, you try to fish down in the Chippewa River where the Eau Claire sewer outlet comes out and you don't want to fish there. It is much better now that the storm sewers and the sanitary sewers are separated. You go down the river and you notice all of

the abandoned, it was mentioned before, old dumps. They're gone now. Well, hopefully they're gone now. The agriculture runoff is being taken care of. We're working on that. The one thing that is just bothering me now in terms of the water quality is the tremendous development along our rivers and lakes and fragmentation of our forests. I just hope the committee works on all of the ecological quality features they can to keep our Wisconsin rivers and lakes as pure as they can. Thank you.

Chuck Ward: My name is Chuck Ward and listening to the presentation this afternoon I think lots of good things are in order and coming. The two areas that I have concern about, effect me directly. The renovation size, footprint of 1500 square feet, and if I understand that correctly that is in the nonconforming 75-feet, if you're behind that, there is no restriction there. I would think that as you go through this process you're going to have lots of resistance on that 1500 square-foot limitation. The other area that I have direct concern about is commercial property on waterfront. I read what's in the proposals here and I don't see a whole lot of information directed in that area. But what I do see is that you are using residential regulations to control commercial usage and development. I think that there is an unrealistic proposition. I think that there needs to be more input there.

John Stencil: I'm speaking on behalf of the town of Big Bend and the Concerned Citizens for Property Owners Rights in Rusk County. We have an organization there because of the shoreland zoning codes that were implemented in Rusk County that we felt were too restrictive. They go along with the guidelines or the lines that are being set down by the state right now, but the preference that we have would be to continue the regulation as it is: where the state has got a standard and the counties cannot reduce their shoreland zoning codes beyond the state standard. The state now is ratcheting up the standards to the points of what some counties have adopted on impervious surface mitigation and so on. But some of the things that I look at in the document that I received in the mail from the DNR because I attended because I attended so many NR 115 hearings that were held around the state.

There's a problem in the foundations that are in this document. Proposal B says the removal and replacement of all or virtually all of the structural components of a structure with the exception of the foundation. You can replace the structure, but if your foundation is failing, if you have block or broken foundation, you cannot touch that foundation. What is will cause is the removal of that property, and it's happening in our county, in our township where homes are being put in a landfill. We feel that the option ought to be that the foundation should be repaired rather than take and put a home in the landfill.

The other option is pick it up and move it 75 feet back. And most people are not taking that option to move it 75 feet back. In some cases you cannot move it 75 feet back because there's a town road, and there's not room between the shoreline and the town road. This happens in many jurisdictions. So you cannot move that property, if you wanted to, to move it 75 feet back. Now you have an additional problem. You have an old piece of property that you want to move back, and in our county, the zoning law permits the county . . . and I don't know what the state, as far as I know the state has no regulation on this because I talked to them about it . . . that there should be a regulation that you have to stay at least 15 feet away from the town right-of-way or

the county right-of-way or state right-of-way, at least 15 feet. We don't want these properties right on the right-of-way, and there's a good reason for that.

A good case in our township was they had to remove six trees because of this regulation. These six trees had to be removed, these trees anywhere from 40 to 60 years old, nice pines along side the roadway. In order to put that house where the zoning department said that it had to be without having a 15-foot setback, these trees had to be removed. That's not environmentally friendly. I would like to say that the problems are many with the code, although when you get the document, there are two selections, A and B. B would be the lesser of all evils, and I would urge anybody to select B.

Cecilia Stencil: First of all I wouldn't want to be on that committee and share any of your shoes. I'm representing the town of Big Bend. I'm the clerk treasurer in Rusk County, and I also represent the Island Chain of Lakes Property Owners Association. On behalf of some of the elderly people especially that we have in our community, I'd really like you to think hard about the nonconformity issue. It seemed to me, but looking at the town records, that 1927 was a really good year to divide up property if you had it along the lake. A lot of these lots were divided up at only 65 feet per lot, and there's not even 90 feet to go to the roadway. I don't think that it's fair for those people not to be able to do the necessary repairs to keep their properties in the proper shape, including their foundations. Some of them have lived in our township for 80 to 90 years or more and they want to give it to their children. I don't really think it's fair that those kinds of issues should happen. I urge you to think hard about the nonconforming issue.

Robert Sibb: In this area here, and as far as conservation and that, I raise pheasants and I release them for wildlife. The high school is going to use this as forest management. The bank will help put up a gazebo for old people because we have what they call Maturity Matters. We have over 480 members that are over 60 years old, and they love this outing. In this area here, we have a white pine tree that measures 103 inches around. We can't get in there to harvest it. There is tamarack in there that is 72 inches around. We can't harvest it because of this wet area that showed you on this map. Further on, near the river, the land is high and dry. If we could remove this we could make this an excellent pass time for kids and everything. This fishpond that was turned down was going to be used to raise a hybrid trout that does not reproduce, they must be replaced. This was going to be fishing for kids. You know young kids start under a certain age. This was all a planned park. And everything goes for naught. To top this all off, we have over 4000 acres now, with this thing don't fly since 1998, we are shutting off for all hunting, trapping, and everything. I mean I can't help it. People are in there. I have a small map here where these 5.3 acres, people are setting up stands to bow hunt. They come in there as soon as I release the pheasants from the cage; they're down there hunting. It's not sportsman-like. I myself have never shot a duck, a goose, or a pheasant, because I love them. Thank you.

Unknown: I guess the thing about the whole ordinance, buffers and all of these things, it's real hard to get people to do them and understand them. The part I would like to see stuck in this would be the hard surface area or impervious surface put on the lot where no more than 25% of surface can be non-pervious. That really takes care of a lot of issues. Whether you need a buffer or not is just so that the whole lot doesn't become incorporated with hard surface. The main goal

would be just to stop the runoff from getting in the lake. If you have a flat lot, I don't really think you should be treated the same as a guy who has a 90 degree lot.

I think the hard surface area would be a cleaner way of doing it. I like the buffer, but you're never going to be able to enforce it on everybody. The second thing I had was stormwater runoff. I own property on the Chippewa River between Eau Claire and Chippewa, and I just can tell as the city has been growing now; and of course NR 115 probably isn't going to cure this problem, but we've added so much to the stormwater system to it, it is really beginning to have an impact on it now as we've grown. Having developments keep their own runoff on their own property as we go would be important. Really with the lake lots, that would be the ultimate goal, to keep runoff on your own lot. If you have a 60-foot lot you shouldn't be able to enclose it completely in surface.

Bob Weirman: My name is Bob Weirman and I live in Lafayette Township, Chippewa County. I have a full year-round dwelling on a lake. I grew up on the Onion River in Sheboygan County and the Walden Mill Pond and still own about three-quarters of a mile of frontage on that pond and river. I have a family interest in a cottage in Oneida County. I'm not a realtor, an excavator, or a builder. I have a personal interest.

My first comment is that the DNR is perceived by many people, at least my neighbors, as being Big Brother, and you have that cross to bear whether you want it or not. I wanted to say that I liked the common sense that has been injected by the advisory group on existing nonconforming structures because it begins to allow some reality into the way in which people want to maintain and encourage them to do some maintenance on their properties. Although the 50% rule and that sort of thing is so wide open to interpretation that it will be difficult to evaluate. However, the attitude is much improved on that particular issue. And I would like to congratulate the committee on that.

I would also like to comment on the best practices or mitigation. Mitigation is such a negative word; it would be nice to try to call it something else to encourage people to look at it positively. Right now it is viewed as something that the homeowner is required to do in order to get what they want. If somehow this agency of our state government and its advisors could come up with a way to incent property owners along the shoreland to look at these things as positive. Providing incentives, use of native plants and grasses in such a way as to improve their property and try to put that light upon it, the use of rain gardens and other kinds of things like this, rather than use it as a club. Let's use these things as ways in which we can improve our property and make our property better, as opposed to something that we are forced to do at the time that we want permission to do something that would otherwise not be allowed to do. I would like to try to find ways, or encourage ways, that will encourage us to do these kinds of things and somehow incorporate that aspect into some aspect of this new rule giving us something other than a look at the DNR as "Here it comes again. We have to figure out how to manage or sidestep to get around these rules, and build all of our boathouses as soon as we can." One thing that is going to guarantee more boathouses in Wisconsin is a rule that says you can no longer build them. Thank you.